

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1609

Introduced by Assembly Member Alejo

February 6, 2014

An act to amend Sections 16520 and 27590 of, and to add Section 27585 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL’S DIGEST

AB 1609, as amended, Alejo. Firearms.

Existing law, subject to exceptions, requires a firearm transaction to be conducted by a licensed firearms dealer. Existing law establishes requirements that dealers must adhere to in conducting firearms transactions and when delivering firearms, including, among others, a 10-day waiting period, purchaser background check, and possession of a handgun safety certificate by the purchaser.

~~This bill would require a California resident who seeks to own and possess within the state a firearm acquired from outside the state to have the firearm delivered to a dealer in this state for delivery pursuant to the above requirements, subject to specified exceptions would, commencing January 1, 2015, prohibit a resident of this state from importing into this state, bringing into this state, or transporting into this state, any firearm that he or she purchased or otherwise obtained on or after January 1, 2015, from outside of this state unless he or she first has that firearm delivered to a dealer in this state for delivery to that resident pursuant to the requirements described above regarding dealers. The bill would create several exemptions to this prohibition, as specified.~~ The bill would make a violation of these provisions involving a firearm that is not a handgun a misdemeanor, and a violation

involving a handgun a misdemeanor or a felony. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) It is the intent of the Legislature in adding
2 Section 27585 to the Penal Code to do all of the following:
3 (1) Address the circumstances in which a California resident,
4 on or after January 1, 2015, acquires a firearm outside of
5 California and then transports, imports, or brings that firearm
6 into California, in violation of Section 922(a)(3) of Title 18 of the
7 United States Code, but where the provisions of Section 27545 of
8 the Penal Code do not apply.
9 (2) Allow the current brokering processes set forth in Section
10 922(a)(3) of Title 18 of the United States Code, Section 27545 of
11 the Penal Code, and any implementing statutes to continue.
12 (3) Allow persons who acquire firearms outside of California
13 by bequest or intestate succession to utilize the functionally same
14 reporting requirements as apply to an applicable exemption from
15 Section 27545 if that receipt were to occur within California.
16 (b) It is not the intent of the Legislature in enacting Section
17 27585 to affect any of the following:
18 (1) The lending of firearms by or to California residents that
19 occur solely outside of California.
20 (2) The lending of firearms in this state which comply with
21 statutes that currently govern the lending of firearms.
22 (3) To impose duplicative and unnecessary reporting
23 requirements where reporting requirements already apply.
24 (4) Persons who currently import or bring firearms into
25 California under current regulatory statutes who comply with
26 those statutes.
27 (5) To narrow the exemption set forth in Section 27600 of the
28 Penal Code for law enforcement acquisition of firearms

1 *irrespective of where the physical acquisition of the firearm took*
2 *place.*

3 **SECTION 1.**

4 *SEC. 2.* Section 16520 of the Penal Code is amended to read:

5 16520. (a) As used in this part, “firearm” means a device,
6 designed to be used as a weapon, from which is expelled through
7 a barrel, a projectile by the force of an explosion or other form of
8 combustion.

9 (b) As used in the following provisions, “firearm” includes the
10 frame or receiver of the weapon:

- 11 (1) Section 16550.
- 12 (2) Section 16730.
- 13 (3) Section 16960.
- 14 (4) Section 16990.
- 15 (5) Section 17070.
- 16 (6) Section 17310.
- 17 (7) Sections 26500 to 26588, inclusive.
- 18 (8) Sections 26600 to 27140, inclusive.
- 19 (9) Sections 27400 to 28000, inclusive.
- 20 (10) Section 28100.
- 21 (11) Sections 28400 to 28415, inclusive.
- 22 (12) Sections 29010 to 29150, inclusive.
- 23 (13) Sections 29610 to 29750, inclusive.
- 24 (14) Sections 29800 to 29905, inclusive.
- 25 (15) Sections 30150 to 30165, inclusive.
- 26 (16) Section 31615.
- 27 (17) Sections 31705 to 31830, inclusive.
- 28 (18) Sections 34355 to 34370, inclusive.
- 29 (19) Sections 8100, 8101, and 8103 of the Welfare and
30 Institutions Code.

31 (c) As used in the following provisions, “firearm” also includes
32 a rocket, rocket propelled projectile launcher, or similar device
33 containing an explosive or incendiary material, whether or not the
34 device is designed for emergency or distress signaling purposes:

- 35 (1) Section 16750.
- 36 (2) Subdivision (b) of Section 16840.
- 37 (3) Section 25400.
- 38 (4) Sections 25850 to 26025, inclusive.
- 39 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 40 (6) Sections 26035 to 26055, inclusive.

(d) As used in the following provisions, “firearm” does not include an unloaded antique firearm:

- (1) Subdivisions (a) and (c) of Section 16730.
- (2) Section 16550.
- (3) Section 16960.
- (4) Section 17310.
- (5) Chapter 6 (commencing with Section 26350) of Division 5 of Title 4.
- (6) Chapter 7 (commencing with Section 26400) of Division 5 of Title 4.
- (7) Sections 26500 to 26588, inclusive.
- (8) Sections 26700 to 26915, inclusive.
- (9) Section 27510.
- (10) Section 27530.
- (11) Section 27540.
- (12) Section 27545.
- (13) Sections 27555 to 27585, inclusive.
- (14) Sections 29010 to 29150, inclusive.
- (15) Section 25135.

(e) As used in Sections 34005 and 34010, “firearm” does not include a destructive device.

(f) As used in Sections 17280 and 24680, “firearm” has the same meaning as in Section 922 of Title 18 of the United States Code.

(g) As used in Sections 29010 to 29150, inclusive, “firearm” includes the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.

~~SEC. 2.~~

SEC. 3. Section 27585 is added to the Penal Code, to read:

~~27585. (a) A California resident who seeks to own and possess within the state a firearm acquired from outside the state shall have that firearm delivered to a dealer in this state for delivery to that resident pursuant to the procedures set forth in Section 27540.~~

27585. (a) Commencing January 1, 2015, a resident of this state shall not import into this state, bring into this state, or transport into this state, any firearm that he or she purchased or otherwise obtained on or after January 1, 2015, from outside of this state unless he or she first has that firearm delivered to a dealer in this state for delivery to that resident pursuant to the

1 *procedures set forth in Section 27540 and Article 1 (commencing*
2 *with Section 26700) and Article 2 (commencing with Section*
3 *26800) of Chapter 2.*

4 (b) Subdivision (a) does not apply to or affect any of the
5 following:

6 (1) A licensed collector who is subject to and complies with
7 Section 27565.

8 (2) A dealer, ~~where if the dealer is receiving the firearm acting~~
9 *in the course and scope of his or her activities as a dealer.*

10 (3) A wholesaler ~~where, if the wholesaler is receiving the firearm~~
11 *acting in the course and scope of his or her activities as a*
12 *wholesaler.*

13 (4) A person licensed as an importer of firearms or ammunition
14 or licensed as a manufacturer of firearms or ammunition, pursuant
15 to Section 921 et seq. of Title 18 of the United States Code and
16 the regulations issued pursuant thereto if the importer or
17 manufacturer is ~~receiving the firearm acting~~ in the course and
18 scope of his or her activities as a licensed importer or manufacturer.

19 (5) A personal firearm importer who is subject to and complies
20 with Section 27560.

21 (6) A licensed collector who is subject to and complies with
22 Section 27966.

23 ~~(7) A California resident who acquires ownership of a firearm~~
24 ~~by bequest or intestate succession if the acquisition or ownership~~
25 ~~of that firearm is exempt from the provisions of Section 27545~~
26 ~~pursuant to, and is in compliance with, Section 27875.~~

27 *(7) A California resident who acquires ownership of a firearm*
28 *by bequest or intestate succession who imports the firearm into*
29 *this state, brings the firearm into this state, or transports the*
30 *firearm into this state if both of the following conditions apply:*

31 *(A) If the firearm is physically received within this state, the*
32 *receipt of that firearm by that individual is exempt from the*
33 *provisions of Section 27545.*

34 *(B) The person who acquired the firearm reports his or her*
35 *ownership of that firearm to the Department of Justice in a format*
36 *prescribed by the department.*

37 (8) A person who is on the centralized list of exempted federal
38 firearms licensees pursuant to Section 28450 if that person is
39 acting in the course and scope of his or her activities as a licensee.

1 (9) A firearm regulated pursuant to Chapter 1 (commencing
2 with Section 18710) of Division 5 of Title 2 acquired by a person
3 who holds a permit issued pursuant to Article 3 (commencing with
4 Section 18900) of Chapter 1 of Division 5 of Title 2, if that person
5 is acting within the course and scope of his or her activities as a
6 licensee and in accordance with the terms and conditions of the
7 permit.

8 (10) A firearm regulated pursuant to Chapter 2 (commencing
9 with Section 30500) of Division 10 acquired by a person who holds
10 a permit issued pursuant to Section 31005, if that person is acting
11 within the course and scope of his or her activities as a licensee
12 and in accordance with the terms and conditions of the permit.

13 (11) A firearm regulated pursuant to Chapter 6 (commencing
14 with Section 32610) of Division 10 acquired by a person who holds
15 a permit issued pursuant to Section 32650, if that person is acting
16 within the course and scope of his or her activities as a licensee
17 and in accordance with the terms and conditions of the permit.

18 (12) A firearm regulated pursuant to Article 2 (commencing
19 with Section 33300) of Chapter 8 of Division 10 acquired by a
20 person who holds a permit issued pursuant to Section 33300, if
21 that person is acting within the course and scope of his or her
22 activities as a licensee and in accordance with the terms and
23 conditions of the permit.

24 (13) The importation of a firearm into the state, bringing a
25 firearm into the state, or transportation of a firearm into the state,
26 that is regulated by any of the following statutes, if the acquisition
27 of that firearm occurred outside of California and is conducted in
28 accordance with the applicable provisions of the following statutes:

29 (A) Chapter 1 (commencing with Section 18710) of Division 5
30 of Title 2, relating to destructive devices and explosives.

31 (B) Section 24410, relating to cane guns.

32 (C) Section 24510, relating to firearms that are not immediately
33 recognizable as firearms.

34 (D) Sections 24610 and 24680, relating to undetectable firearms.

35 (E) Section 24710, relating to wallet guns.

36 (F) Chapter 2 (commencing with Section 30500) of Division
37 10, relating to assault weapons.

38 (G) Section 31500, relating to unconventional pistols.

39 (H) Sections 33215 to 33225, inclusive, relating to
40 short-barreled rifles and short-barreled shotguns.

1 (I) Chapter 6 (commencing with Section 32610) of Division 10,
2 relating to machineguns.

3 (J) Section 33600, relating to zip guns, and the exemptions in
4 Chapter 1 (commencing with Section 17700) of Division 2 of Title
5 2, as they relate to zip guns.

6 (c) The ~~prohibitions~~ provisions of this section are cumulative
7 and do not restrict the application of any other law. However, an
8 act or omission punishable in different ways by this section and
9 different provisions of this code shall not be punished under more
10 than one provision.

11 ~~SEC. 3.~~

12 SEC. 4. Section 27590 of the Penal Code is amended to read:

13 27590. (a) Except as provided in subdivision (b), (c), or (e),
14 a violation of this article is a misdemeanor.

15 (b) If any of the following circumstances apply, a violation of
16 this article is punishable by imprisonment pursuant to subdivision
17 (h) of Section 1170 for two, three, or four years.

18 (1) If the violation is of subdivision (a) of Section 27500.

19 (2) If the defendant has a prior conviction of violating the
20 provisions, other than Section 27535, Section 27560 involving a
21 firearm that is not a handgun, or Section 27565 involving a firearm
22 that is not a handgun, of this article or former Section 12100 of
23 this code, as Section 12100 read at any time from when it was
24 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
25 when it was repealed by Section 18 of Chapter 23 of the Statutes
26 of 1994, or Section 8101 of the Welfare and Institutions Code.

27 (3) If the defendant has a prior conviction of violating any
28 offense specified in Section 29905 or of a violation of Section
29 32625 or 33410, or of former Section 12560, as that section read
30 at any time from when it was enacted by Section 4 of Chapter 931
31 of the Statutes of 1965 to when it was repealed by Section 14 of
32 Chapter 9 of the Statutes of 1990, or of any provision listed in
33 Section 16590.

34 (4) If the defendant is in a prohibited class described in Chapter
35 2 (commencing with Section 29800) or Chapter 3 (commencing
36 with Section 29900) of Division 9 of this title, or Section 8100 or
37 8103 of the Welfare and Institutions Code.

38 (5) A violation of this article by a person who actively
39 participates in a "criminal street gang" as defined in Section 186.22.

1 (6) A violation of Section 27510 involving the delivery of any
2 firearm to a person who the dealer knows, or should know, is a
3 minor.

4 (c) If any of the following circumstances apply, a violation of
5 this article shall be punished by imprisonment in a county jail not
6 exceeding one year or pursuant to subdivision (h) of Section 1170,
7 or by a fine not to exceed one thousand dollars (\$1,000), or by
8 both that fine and imprisonment.

9 (1) A violation of Section 27515, 27520, or subdivision (b) of
10 Section 27500.

11 (2) A violation of Section 27505 involving the sale, loan, or
12 transfer of a handgun to a minor.

13 (3) A violation of Section 27510 involving the delivery of a
14 handgun.

15 (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section
16 27540 involving a handgun.

17 (5) A violation of Section 27545 involving a handgun.

18 (6) A violation of Section 27550.

19 (7) A violation of Section 27585 involving a handgun.

20 (d) If both of the following circumstances apply, an additional
21 term of imprisonment pursuant to subdivision (h) of Section 1170
22 for one, two, or three years shall be imposed in addition and
23 consecutive to the sentence prescribed.

24 (1) A violation of Section 27510 or subdivision (b) of Section
25 27500.

26 (2) The firearm transferred in violation of Section 27510 or
27 subdivision (b) of Section 27500 is used in the subsequent
28 commission of a felony for which a conviction is obtained and the
29 prescribed sentence is imposed.

30 (e) (1) A first violation of Section 27535 is an infraction
31 punishable by a fine of fifty dollars (\$50).

32 (2) A second violation of Section 27535 is an infraction
33 punishable by a fine of one hundred dollars (\$100).

34 (3) A third or subsequent violation of Section 27535 is a
35 misdemeanor.

36 (4) For purposes of this subdivision each application to purchase
37 a handgun in violation of Section 27535 shall be deemed a separate
38 offense.

1 ~~SEC. 4.~~

2 *SEC. 5.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

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